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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/079,258 | 02/19/2002 | Jose María Serichol Blasco | SERICHOL BLASCO - 1 | 6097 |

7590 11/14/2003

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Roslyn, NY 11576-1696

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| EXAMINER |
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SHAH, SAUMIL R

| ART UNIT | PAPER NUMBER |
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2186

DATE MAILED: 11/14/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/079,258

Applicant(s)

SERICHOL BLASCO, JOSE MARIA

Examiner

Saumil Shah

Art Unit

2186

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent-term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02/21/02.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 is/are rejected.
- 7) ☒ ~~Claim(s) 1 is/are objected to.~~
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Acknowledgment is made of applicant's claim for foreign priority under 35 U.S.C. 119(a)-(d). The certified copy has been filed in parent Application No. 200100378, filed on February 20, 2001.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

a) Claim 1 recites the limitation "user code" in line 14. It is unclear as to what the context of the code is. It could be the code that the user keys in at the time of the decryption process. It could also be some identification code, which is used internally by the computer to identify a user when the user logs on. Further explanation is required.

b) Claim 1 recites the limitation "power relay connected to said computer" in line 6. It is not clear whether the power relay is within the computer itself or is it externally connected to the computer. Further clarification is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over Thorpe (US Patent No. 5276865) in view of Langford (US Patent No. 6574733).

With regard to claim 1, Thorpe discloses a system for making automatic backup copies of files (note abstract, line 1) when a personal computer is switched off (note abstract, lines 9-11), comprising:

at least one personal computer (note figures 1 and 2);

an internal or external storage unit connected to said computer (note column 2, lines 31-32);

a principal power relay connected to said computer (note column 2, lines 36-41 wherein the device has a CPU which controls the relay connected to the computer);

configurable control software installed in said computer (note column 3, lines 3-9),

wherein the system runs a configurable backup of selected files from the computer's hard drive to the storage unit, after which the computer is switched off by cutting power to the power relay (note column 3, lines 15-20).

Langford teaches a system wherein the control software is accessed by means of a user code, said user code being required to restore encrypted backup copies (note column 6, lines 14-24 where the secure backup system also consists of the backup selection software. The private decryption key teaches that the user code is required to restore the encrypted backup copies).

Hence, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have added the requirement of user codes as taught by Langford in order to restore the encrypted backup copies, since this would provide security to the system of Thorpe.

6. Claim 1 rejected under 35 U.S.C. 103(a) as being unpatentable over Thorpe (US Patent No. 5276865) in view of Shen (US Patent No. 6611850).

With regard to claim 1, Thorpe discloses a system for making automatic backup copies of files (note abstract, line 1) when a personal computer is switched off (note abstract, lines 9-11), comprising:

at least one personal computer (note figures 1 and 2);

an internal or external storage unit connected to said computer (note column 2, lines 31-32);

a principal power relay connected to said computer (note column 2, lines 36-41 wherein the device has a CPU which controls the relay connected to the computer);

configurable control software installed in said computer (note column 3, lines 3-9),

wherein the system runs a configurable backup of selected files from the computer's hard drive to the storage unit, after which the computer is switched off by cutting power to the power relay (note column 3, lines 15-20).

Shen teaches a system wherein the control software is accessed by means of a user code, said user code being required to restore encrypted backup copies (note column 25, lines 27-48 where it is obvious that the user can configure the control software according to the user's preferences. Also, since it could be a server/client system, each user would need a user code to access the control software. Even though the word "password" or the like is not used, a person ordinarily skilled in the art would know that a server/client system often required a password or a unique user code to log onto the server. Further note column 26, lines 15-21 where it is obvious that the encrypted backup can only be accessed by the user (or authorized users) and so the same user code would need to be used in order to log on to the server and restore the backup copies).

Hence, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have added the requirement of user codes as taught by Shen in order to restore the encrypted backup copies, since this would provide security to the system of Thorpe.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Saumil Shah whose telephone number is 703-305-8786. The examiner can normally be reached on 9:00 AM to 5:30 PM M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matt Kim can be reached on 703-305-3821. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



Saumil Shah
Patent Examiner
Art Unit 2186

October 29, 2003



BEHZAD JAMES PEIKARI
PRIMARY EXAMINER